

House of Representatives, March 12, 1998. The Committee on Labor and Public Employees reported through REP. DONOVAN, 84th DIST., Chairman of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING MANAGED CARE REFORMS IN WORKERS' COMPENSATION MEDICAL PLANS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 31-279 of the general statutes is  
2 repealed and the following is substituted in lieu  
3 thereof:

4 (a) The chairman of the Workers' Compensation  
5 Commission shall adopt regulations, in accordance  
6 with the provisions of chapter 54, specifying the  
7 minimum information to be contained in a notice of  
8 the availability of compensation which shall be  
9 posted in the workplace by each employer subject  
10 to the provisions of this chapter pursuant to  
11 subsection (f) of section 31-284.

12 (b) The chairman of the Workers' Compensation  
13 Commission shall, not later than July 1, 1991,  
14 adopt regulations, in accordance with chapter 54,  
15 to create a uniform system to be used by medical  
16 professionals in determining the degree of  
17 physical impairment of persons receiving  
18 compensation under this chapter.

19 (c) On or after January 1, 1992, any employer  
20 or any insurer acting on behalf of an employer,  
21 may establish a plan, subject to the approval of  
22 the chairman of the Workers' Compensation

23 Commission under subsection (d) of this section,  
24 for the provision of medical care which the  
25 employer provides for treatment of any injury or  
26 illness under this chapter. Each plan shall  
27 contain such information as the chairman shall  
28 require, including, but not limited to: (1) A  
29 listing of all persons who will provide services  
30 under the plan, along with appropriate evidence  
31 that each person listed has met any licensing,  
32 certification or registration requirement  
33 necessary for the person to legally provide the  
34 service in this state; (2) a designation of the  
35 times, places and manners in which the services  
36 will be provided; (3) a description of how the  
37 quality and quantity of medical care will be  
38 managed; and (4) such other provisions as the  
39 employer and the employees may agree to, subject  
40 to the approval of the chairman. The election by  
41 an employee covered by a plan established under  
42 this subsection to obtain medical care and  
43 treatment from a provider of medical services who  
44 is not listed in the plan shall suspend his right  
45 to compensation, subject to the order of the  
46 commissioner.

47 (d) Each plan established under subsection  
48 (c) of this section shall be submitted to the  
49 chairman for his approval at least one hundred  
50 twenty days before the proposed effective date of  
51 the plan and each approved plan, along with any  
52 proposed changes therein, shall be resubmitted to  
53 the chairman every two years thereafter for  
54 reapproval. The chairman shall approve or  
55 disapprove such plans [on the basis of] IN  
56 CONSULTATION WITH A MEDICAL ADVISORY PANEL  
57 APPOINTED BY MEMBERS OF THE GENERAL ASSEMBLY AND  
58 THE GOVERNOR'S OFFICE, IN CONSULTATION WITH  
59 STATE-WIDE MEMBERSHIP ORGANIZATIONS REPRESENTING  
60 MEDICAL PROVIDERS, HEALTH PROFESSIONALS AND  
61 EMPLOYEES. REPRESENTATION ON THE MEDICAL ADVISORY  
62 PANEL SHALL INCLUDE MEDICAL PROVIDERS, OTHER  
63 WORKERS' COMPENSATION HEALTH PROFESSIONALS AND  
64 MEMBERS OF EMPLOYEE LABOR ORGANIZATIONS. APPROVAL  
65 OR DISAPPROVAL OF SUCH PLANS SHALL BE BASED ON  
66 standards established by the chairman in  
67 consultation with [a] THE medical advisory panel.  
68 [appointed by the chairman.] Such standards shall  
69 include, but not be limited to: (1) The ability of  
70 the plan to provide all medical and health care

71 services that may be required under this chapter  
72 in a manner that is timely, effective and  
73 convenient for the employees; (2) the inclusion in  
74 the plan of all categories of medical service and  
75 of an adequate number of providers of each type of  
76 medical service in accessible locations to ensure  
77 that employees are given an adequate choice of  
78 providers; (3) the provision in the plan for  
79 appropriate financial incentives to reduce service  
80 costs and utilization without a reduction in the  
81 quality of service; (4) the inclusion in the plan  
82 of fee screening, peer review, service utilization  
83 review and dispute resolution procedures designed  
84 to prevent inappropriate or excessive treatment;  
85 and (5) the inclusion in the plan of a procedure  
86 by which information on medical and health care  
87 service costs and utilization will be reported to  
88 the chairman in order for him to determine the  
89 effectiveness of the plan.

90 (e) THE CHAIRMAN SHALL NOT APPROVE ANY PLAN  
91 ESTABLISHED UNDER SUBSECTION (c) OF THIS SECTION  
92 UNLESS SUCH PLAN CONTAINS THE FOLLOWING  
93 PROVISIONS: (1) A STATEMENT THAT THE PROVISIONS OF  
94 ANY SUCH PLAN SHALL BE DISCLOSED UPON ANY WRITTEN  
95 REQUEST; (2) A STATEMENT THAT ANY DECISION TO  
96 MODIFY OR TERMINATE THE TREATMENT OF AN EMPLOYEE  
97 ENROLLED IN SUCH PLAN SHALL BE RESERVED TO A  
98 MEDICAL PROVIDER WHO IS TRAINED, EXPERIENCED AND  
99 CERTIFIED BY THE APPROPRIATE AMERICAN BOARD IN THE  
100 SAME SPECIALTY AS THE TREATING PROVIDER; (3) A  
101 STATEMENT THAT NO MEDICAL PROVIDER PARTICIPATING  
102 IN THE PLAN SHALL BE PROHIBITED FROM DISCUSSING  
103 WITH AN EMPLOYEE ANY TREATMENT OPTION OR MEDICAL  
104 SERVICE REGARDLESS IF SUCH TREATMENT OR SERVICE IS  
105 COVERED UNDER THE PLAN; (4) A STATEMENT THAT THE  
106 PLAN SHALL NOT PENALIZE OR DESELECT ANY MEDICAL  
107 PROVIDER WHO OFFERS TREATMENT TO AN EMPLOYEE  
108 BEYOND THE TREATMENT RECOMMENDED OR PRESCRIBED BY  
109 THE PLAN; (5) A STATEMENT THAT THE PLAN SHALL NOT  
110 DISCRIMINATE AGAINST A MEDICAL PROVIDER IN TERMS  
111 OF PARTICIPATION, REIMBURSEMENT OR INDEMNIFICATION  
112 ON THE BASIS OF LICENSURE OR CERTIFICATION,  
113 PROVIDED THE MEDICAL PROVIDER IS LICENSED OR  
114 CERTIFIED IN GOOD STANDING AND IS ACTING WITHIN  
115 THE SCOPE OF HIS LICENSE OR CERTIFICATION; (6) A  
116 STATEMENT THAT ANY EMPLOYEE ENROLLED IN SUCH PLAN  
117 MAY ELECT TO SEEK TREATMENT FROM ANY MEDICAL  
118 PROVIDER ON THE LIST OF APPROVED PROVIDERS

119 PUBLISHED BY THE CHAIRMAN OF THE WORKERS'  
120 COMPENSATION COMMISSION; AND (7) A STATEMENT THAT  
121 ANY EMPLOYEE ENROLLED IN SUCH PLAN MAY ELECT TO  
122 SEEK TREATMENT AT HIS OWN COST FROM A MEDICAL  
123 PROVIDER OUTSIDE OF THE PLAN WITHOUT RISKING  
124 SUSPENSION OR TERMINATION FROM THE PLAN.

125 [(e)] (f) Any person who serves as a member  
126 of the medical advisory panel, appointed [by the  
127 chairman of the Workers' Compensation Commission]  
128 pursuant to subsection (d) of this section, shall  
129 be deemed to be a state officer or employee for  
130 purposes of indemnification and defense under  
131 section 5-141d.

132 (g) THE CHAIRMAN OF THE WORKERS' COMPENSATION  
133 COMMISSION SHALL REPORT ANNUALLY TO THE JOINT  
134 STANDING COMMITTEE OF THE GENERAL ASSEMBLY HAVING  
135 COGNIZANCE OF MATTERS RELATING TO LABOR AND PUBLIC  
136 EMPLOYEES REGARDING THE MEDICAL EFFECTIVENESS AND  
137 EXPERIENCE OF ALL PLANS ESTABLISHED AND APPROVED  
138 PURSUANT TO SUBSECTIONS (c) AND (d) OF THIS  
139 SECTION.

140 LAB COMMITTEE VOTE: YEA 6 NAY 4 JFS

\* \* \* \* \*

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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**FISCAL IMPACT STATEMENT - BILL NUMBER SHB 5075**

STATE IMPACT                      Indeterminate      Cost      (Workers' Compensation      Fund),      see explanation below

MUNICIPAL IMPACT              None

STATE AGENCY(S)              Workers' Compensation Commission

**EXPLANATION OF ESTIMATES:**

STATE IMPACT: The passage of this bill would result in additional costs to the Workers' Compensation Commission that cannot be determined at this time. The bill requires the Chairman of the Workers' Compensation Commission to consult with the Medical Advisory Panel before approving or disapproving proposed workers' compensation medical plans, and also requires the Chairman to report annually to the Labor and Public Employees Committee on the experience and effectiveness of all approved plans. These costs cannot be determined at this time.

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**OLR BILL ANALYSIS**

SHB 5075

**AN ACT CONCERNING MANAGED CARE REFORMS IN WORKERS' COMPENSATION MEDICAL PLANS**

**SUMMARY:** This bill requires medical plans established by employers under the worker's compensation law to contain specified statements regarding the rights of

employees and health care providers to receive approval from the Workers' Compensation Commission chairman.

The bill also:

1. eliminates the chairman's authority to appoint members of the Medical Advisory Panel he consults with to establish standards for medical plans, and instead grants this authority to unspecified "members of the General Assembly" and the Governor's Office,
2. requires the chairman to consult with the panel before approving or disapproving a plan,
3. requires the chairman to report annually (on an unspecified date) to the Labor and Public Employees Committee on the experience and effectiveness of all approved plans.

EFFECTIVE DATE: October 1, 1998

#### **FURTHER EXPLANATION**

##### **Medical Advisory Panel**

In appointing the medical advisory panel, General Assembly members and the Governor's office must consult with statewide organizations representing medical providers, health professionals, and employees. Members must represent medical providers, other workers' compensation health professionals, and "collective bargaining representatives."

##### **Statements Required in Medical Plans**

The bill requires medical plans to contain these statements:

1. provisions of the plan must be disclosed upon any written request;
2. a decision to modify or end treatment is reserved to a medical provider trained, experienced, and certified by an appropriate American board in the same specialty as the treating provider;

3. the plan's medical providers are free to discuss treatment options and services not covered by the plan;
4. a provider will not be penalized for offering treatment not recommended or prescribed by the plan;
5. the plan will not discriminate against a provider in terms of participation, reimbursement, or indemnification on the basis of licensure or certification, as long as the provider is licensed or certified in good standing and acts within his scope of practice;
6. a plan member may seek treatment from any provider on the chairman's published list of approved providers; and
7. a plan member may seek treatment at his own expense from a provider outside the plan without risking suspension or termination.

## **BACKGROUND**

### **Related Statute and Regulations**

By law, the chairman cannot approve a workers' compensation medical plan unless it meets standards specified by statute (CGS § 31-279 sub. (d)) and regulation (Connecticut Law Journal, January 27, 1998). Statutory standards include:

1. the plan's ability to provide all medical and health services required by workers' compensation law in a timely, effective, and convenient way;
2. having all categories of medical service and enough providers of each service in convenient locations to assure adequate choice for employees;
3. appropriate financial incentives to cut service costs and use without reducing quality;

4. fee screening, peer review, service utilization review, and dispute resolution procedures aimed at preventing inappropriate or excessive treatment; and
5. a procedure for reporting costs and use to the chairman so he can determine the plan's effectiveness.

Regulations require plans to provide, among other standards and information:

1. a description of the selection and removal procedure for providers;
2. a description of the plan's review and appeal procedures and standards for utilization review and dispute resolution;
3. assurance of enough providers to offer immediate care for emergency cases;
4. inclusion of at least one occupational health clinic, auxiliary occupational health clinic, or hospital with a board eligible or certified occupational health physician;
5. a minimum of five providers of each of 26 listed types of medical and health care service; and
6. a list of the plan's employee and contract providers.

#### **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute  
Yea 6        Nay 4